TITLE 326 AIR POLLUTION CONTROL BOARD

LSA Document #00-68

SUMMARY/RESPONSE TO COMMENTS FROM THE THIRD COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from April 1, 2000, through April 24, 2000, on IDEM's draft rule language. IDEM received comments from the following parties:

Quemetco, Incorporated	(QI)
Exide Corporation	(EC)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: Quemetco supports IDEM's efforts to make the requirements for secondary lead smelters uniform throughout the state and to consolidate these requirements into a single regulation. (QI)

Response: IDEM appreciates Quemetco's continued support of this proposed rule.

Comment: The proposed rules, and in particular the emission limits, are still not justified in terms of mandatory state rulemaking standards at IC 13-14-8-4, IC 13-17-3-4, and IC 13-17-3-1. IDEM has not justified the need for a new state national emission standard for hazardous air pollutants (NESHAP) for secondary lead smelters in terms of the applicable rulemaking requirements. IDEM has not shown that emissions from Exide's facility are injurious to "human, plant, animal, or aquatic life" or to "the reasonable enjoyment of life and property." IDEM has also not shown that zoning restrictions are insufficient to protect public health. The existing federal limits are as stringent as they need to be, consistent with IC 13-14-8-4, and this is based on the U.S. EPA health effect data cited in the federal rulemaking. IDEM is obligated to consider local differences in setting limits for different sources pursuant to IC 13-14-8-4, but to date IDEM has not done so. Exide's actual emissions are far less than the federal limits and Exide's operating permit ensures that the emissions will remain low. The proposed rulemaking is not justified, is not necessary under the applicable state standards and is contrary to law. (EC)

Response: IDEM believes the proposed rule is clearly within the authority granted, and that it is fully consistent with the statutory requirements for rulemaking. IDEM believes sufficient justification has been provided for requiring Exide to maintain its current performance. The primary emission limit in the proposed rule is at the same level of stringency as that currently within existing state air rules covering secondary lead smelters. Under IC 13-17-3-4, the air pollution control board (APCB) is required to adopt rules that are consistent with IC 13-17-1 and necessary for implementation of the Clean Air Act (CAA). The stated purpose of air pollution control laws under IC 13-17-1-1 includes "The APCB and the department shall safeguard the air resource through the prevention, abatement, and control of air pollution by all practical and

economically feasible methods." While a direct link between Exide's emissions and a specific injury is not documented, emissions of lead are widely known to be injurious to humans and IDEM believes that lead emissions should be controlled to "safeguard the air resource." Citizens who are exposed to several known human carcinogens from smelters expect IDEM to ensure compliance with existing regulations in a fair manner. Because Quemetco is the only operating secondary lead smelter covered by long-established state rule, IDEM proposes to bring Exide, and any other future secondary lead smelter, under the same standards, thereby allowing for consistent protection of the public and consistent standards for companies throughout Indiana.

Comment: IDEM has stated a concern that Exide and Quemetco will somehow "backslide" from their current performance levels if more stringent limits are not instituted in a rule. IDEM has provided no evidence that backsliding will occur, so IDEM's concern does not form a valid basis for the new NESHAP, and in particular for the new emission limits. (EC)

Response: The proposed limits are achievable, and have been achieved, at every Quemetco and Exide stack by an adequate margin over several years based on many performance test reports. IDEM is proposing that both Exide and Quemetco continue their own high standard for operating and maintaining pollution control equipment. In addition, IDEM's purpose is to establish MACT limits, not only for Quemetco and Exide, but for any new secondary lead smelter that may locate in Indiana. It has been demonstrated by the federal government that incremental increases in exposure to lead has a direct impact on children, whose health effects are measurable and last their entire lives. IDEM believes it is not appropriate to relax the existing state lead standard. Federal law specifically allows states to retain established standards rather than automatically adopting national emission standards promulgated under Section 112(d) of the Clean Air Act.

Comment: The fact that Quemetco is currently meeting the proposed new emission limits, and IDEM's desire for a "level playing field" for the two (2) currently existing secondary lead smelters in Indiana, have no bearing on IDEM's decision to impose the same limitations and requirements on both Quemetco and Exide. The desire for a level playing field does not explain a number of other requirements of the proposed rule, namely the requirement for high efficiency particulate air (HEPA) filters on new and reconstructed sources, the new opacity limits, the requirement for continuous monitoring of negative pressure, the requirement for permanent ambient air monitoring, and the entirely new section governing bag leak detection for facility dust collectors. IDEM has not demonstrated why such measures are needed to achieve the new emission limits. The added expense, monitoring and record keeping burdens, and in the case of total enclosure monitoring, the technical feasibility of the new requirement, cannot be justified in terms of any compelling environmental need. (EC)

Response: IDEM's rationale for the specific requirements of the proposed rule are provided in detail in IDEM's Response to Comments from the Second Comment Period, as published in the *Indiana Register* on April 1, 2000. All of the requirements are intended to assure compliance with emission standards. From the perspective of providing similar emission standards for similar industrial operations, and doing this in a fair way, it is expected that the proposed

requirements, including the main lead emission limit for process sources, would not cause either Exide nor Quemetco to install additional emission controls for existing operations.

Comment: Exide should be permitted to use existing stack test data to support biennial testing of process sources, based upon achieving emissions equal to fifty percent (50%) of the federal standard. Based upon the applicable federal standard, Exide is on a biennial testing schedule and it would be a substantial hardship for Exide to alter this testing schedule. Basing the biennial testing schedule upon a demonstration of emissions less than or equal to fifty percent (50%) of the state limit that is four (4) times more stringent than the federal limit, is neither technically nor economically justifiable. (EC)

Response: All stack testing results reported by Exide since 1993 show that the emission rates from both process stacks at Exide would allow the company to remain on a twenty-four (24) month testing schedule if emissions remain constant. Both the federal MACT standard and the proposed rule use fifty percent (50%) as a reasonable cutoff for double checking compliance on an annual basis instead. IDEM believes that using fifty percent (50%) of the applicable standard, which in this case is the Indiana state rule standard, is appropriate.

Comment: The requirement for continuous monitoring of air pressure differential for total building enclosures at 326 IAC 20-13-7(c) remains technically infeasible and economically unreasonable. IDEM has not explained why the continuous monitoring is necessary or why alternative methods under the federal rule are not appropriate. Exide believes that its system of baghouses, operating in compliance with Exide's permit, is sufficient to ensure the maintenance of negative pressure. Prior experience has shown that flow meters have been difficult to calibrate and expensive to replace. Exide would like to discuss monitoring technologies that IDEM believes to be available and how IDEM determined that the cost of such monitoring would not be prohibitive to Exide. (EC)

Response: Discussion of other monitoring technologies has taken place in meetings between IDEM and Exide and the advantages and disadvantages of the monitoring options have been thoroughly discussed. The technology to perform this monitoring is available at a reasonable cost, less than five thousand dollars ($5,000) with little or no maintenance costs, and is being used by Quemetco at this time. Therefore, we are retaining this provision in the proposed rule. The need is fully explained in IDEM's Response to Comments from the Second Comment Period, and is based on ensuring control devices capture fugitive lead dust before it leaves the property.

Comment: The proposed opacity limits are unnecessary and impose an additional regulatory burden that cannot be justified in light of other means of controlling emissions under Exide's permit. Trained observers can note opacity only with a significant margin of error, usually at least plus or minus five percent (5%), and therefore, the standard of greater than five percent (5%) in effect means ten percent (10%), the next readable increment. In addition, the exceedance of the opacity limit should trigger an obligation to investigate, and should not automatically be a violation. The no visible emission standard for exterior dust handling systems is also excessively

stringent. Exide believes that the no visible emission standard will be exceedingly difficult to comply with as well as to enforce, with little environmental benefit. The fugitive dust control requirements in Exide's permit and in the federal NESHAP are sufficient. (EC)

Response: The no visible emission standard is an accepted U.S. EPA method used in other federal regulations. For dust handling systems, the reading consists of an average over a sixty (60)-minute period. For stack opacity observations, five percent (5%) remains the proposed standard for compliance based on U.S. EPA's finding that any sustained visible emissions, per Reference Method 9, represent an extraordinary exceedance of the lead concentration standard for smelters.

Comment: Exide believes that ambient air monitoring should be required for only a limited period of time to demonstrate that the source's system of controls is adequate to protect the national ambient air quality standards (NAAQS). By making the requirement permanent, IDEM has removed the incentive to commence monitoring immediately after the rule's effective date provided the monitoring system has been approved. Consistent with other sections of the rule, a source should be rewarded for demonstrating continued compliance by being allowed to cease monitoring at some point in the future. Sources should be able to rely on past data, and monitoring should only be resumed in the event that other monitoring indicates a problem that could affect NAAQS compliance. IDEM should also provide clearer guidance concerning the requirement of "U.S. EPA-approved methods" in relation to the ability of the source to rely on a prior approval of a monitoring network. (EC)

Response: IDEM's Air Monitoring Branch has had recent discussions with Exide, and has provided plant personnel with our quality assurance manual and other written guidance. IDEM believes assurance through ambient air monitoring is one of the primary methods of encouraging Exide and other smelters to meet all applicable requirements. IDEM has included provisions that would allow Exide to request to discontinue the monitoring after two (2) years.

Comment: The bag leak detection record keeping requirements in 326 IAC 20-13-5(1) and 326 IAC 20-13-7(d) unnecessarily impose a new compliance point and record keeping burden. Exide's record keeping and reporting requirements under its permit and the federal NESHAP are already quite extensive, and this paperwork burden should not be increased. Exide objects to the apparent requirement to generate a new semi-annual compliance report that requires the calculation of the percentage of time the bag leak detection system alarm sounds. Exide is already obligated to respond to every baghouse alarm and to implement a stringent baghouse operation and maintenance plan. A source should be given the opportunity to demonstrate that specific baghouse alarms are not associated with excess emissions and should be allowed to submit any additional information in its semi-annual NESHAP reports. (EC)

Response: This provision is a near replica of the requirements U.S. EPA has recently promulgated for other similar sources. The goal is to provide greater assurance that baghouse controls would be properly operated and maintained, and that the emission limit would be met. IDEM's consultations with U.S. EPA provide no reason why secondary lead smelters should not also be subject to this requirement.

Comment: The requirement to have baghouse alarms located where they can be heard by appropriate plant personnel should be changed. It is very noisy inside Exide's facility and Exide uses flashing lights to notify plant personnel of baghouse alarms. This option is adequate and should be allowed under the proposed rule. (EC)

Response: The standard that U.S. EPA has previously set, regarding audible signals as a basic requirement for bag leak detection systems, is workable, however IDEM has revised the rule to allow a source to use a visual alarm system to account for source specific situations.